IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 6412 of 2001
For Approval and Signature:
Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KALIDAS SOHANLAL KANAJIA

Versus

STATE BANK OF INDIA

Appearance:
MR NILESH M SHAH for Petitioner No. 1
NOTICE SERVED for Respondents No. 1-2,6
MR PR NANAVATI for Respondent No. 3
MR MUKESH R SHAH for Respondents No. 4-5

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 29/10/2001

ORAL JUDGEMENT

With the consent of the parties, the matter is taken up for hearing today.

The petitioner has challenged the order of Government of India, Ministry of Labour, dated 17.10.2000. By the impugned order, the dispute is not referred to adjudication. The ground mentioned in the order is as under :-

" ... ...

Since the workman/Union has not submitted

any supporting document in support of claim that he had worked continuously for more than 240 days during a calendar year, hence, no merit for referring the dispute for adjudication.

... ..."

It is required to be noted that while declining the request for referring the matter to the appropriate Court, the reasoning given by the Government is that the petitioner has not completed 240 days. In my view, while deciding the question about making reference, it was not open for the Authority to adjudicate the matter as if it is decided on merits. Whether the concerned workman has completed 240 days or not, is a question which is required to be decided by the competent Court, to whom the dispute is referred. In my view, Government of India declined to refer the matter to the appropriate court absolutely on an irrelevant ground. Reference is also required to be made to the decision of this court in Ahmed N. Makada v. Govt. of India and others, 2000(1) GLR 639. In that view of the matter, the aforesaid order is unsustainable.

The petition is, therefore, allowed. The impugned order at Annexure `B' is quashed and set aside. The appropriate Government is directed to make reference to the appropriate court for adjudication of the dispute in question. Rule is made absolute to the above extent with no order as to costs.

(P.B. Majmudar, J.)

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(apj)